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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,199

11/25/2003

Dwayne Nelson

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7590

05/28/2009

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EXAMINER

HARPER, TRAMAR YONG

ART UNIT

PAPER NUMBER

3714

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,199	<b>Applicant(s)</b> NELSON, DWAYNE	
	<b>Examiner</b> TRAMAR HARPER	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 91-108 and 110-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 91-108 & 110-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Based further search and prior the finality of the rejection of the last Office action and the indicated allowable subject matter is withdrawn. Examiner acknowledges receipt of amendments/arguments filed 05/11/09. The arguments set forth are addressed herein below. Claims 91-108 & 110-113 are pending and Claims 1-90, 95-99, 109, & 114-132 are cancelled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 91-94, 100, 103-108, and 110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of McArthur (GB 2 211 975 A) in further view of Yasukawa (JP 10-263190 A).**

**Claims 91-94, 100, 103-108, & 110-111:** Acres teaches a gaming system that has a display, an input device, a currency accepting mechanism and a controller (Configuration Workstation - Fig. 1) to generate various video games such as a slot game or a video poker game (Col. 1:1-Col. 3:20). Column 2:18-28 discloses that reconfiguring the primary game and the secondary game is analogous since they are

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configured in the same manner. With respect to the minimum bet and the denomination for the deposit of currency please see 2:35-55 which discloses being able to vary the wager per unit time and that it is desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods (Fig. 4-5). Column 3:24-26 discloses that the method of configuring electronic gaming machines interconnected by a computer network to a host computer and that selected configuration parameters are implemented at each machine. The game machines can be used in a standalone configuration (which means the EGM would inherently have to have an internal clock/time generator to monitor time and its own controller) or network configuration and that such configuration parameters control the behavior of the electronic gaming machine (Col. 5:47-Col. 6:12, Col. 9:15-22). Acres discloses that the configuration workstation is programmed to monitor various gaming parameters such as the time the interconnected machines are played and that configuration parameters are implemented by downloading the data to respective EGM's or the configuration parameters are already installed (Col. 6:5-8, Col. 6:63-Col. 7:10). Various game parameters examples that are changed are sound effects (Col. 3:17-20 encompasses volume), appearance (Col. 3:17-20 encompasses theme and brightness), a bonus game/period (Col. 8:20-48), payback percentage (Col. 8:4, Abstract). For example, different bonus periods are entered into the configuration workstation and at the beginning/start of each time period a computer command (time signal) is issued and in response to the command the EGM reconfigures itself, based on parameters already

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stored within the EGM (obtains appropriate configuration data), to change the payback percentage or paytables of the EGM (Col. 8:1-13, see above) e.g. Acres discloses initiating a bonus period during a certain time of the day and turning the bonus period off during another time of the day. Therefore, in a stand alone embodiment the EGM inherently has to encompass a time generator or its own internal clock that maintains the time in order to achieve the above (Col. 6:55-62). Acres, also clearly states the scope of the invention is to change game machine aspects/behaviors with respect to time (3:18) in addition to other such variables. Acres also teaches in the abstract that machine behaviors such as game speed, payback percentage, game appearance are changed in response to a signal from one of a number of variables, such as time (Abstract). Acres furthermore offers more support for the behaviors such as payback percentage modified based upon time (8:49-65). In regard to memory mediums used, Acres teaches using optical (4:3), and various semiconductor memories such as PROMs (5:21) and RAM (5:25) to store various instructions to implement and execute the above-taught game system. Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. Acres lacks in specifically disclosing that the controller change a

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minimum bet for the video gambling game in response to the time signal. Instead, Acres states that it is desirable for the casino to set the cost to the player at a higher lever (cost interpreted as the minimum wager or coin-in amount, although not explicitly stated) at a higher level during high demand periods to increase casino revenue and a lower level at low demand periods to attract players (Col. 2:50-55). It is well known in the art for casinos to change the coin-in amount or wager amount on gaming machines for the purposes of Acres, above.

Acres discloses the above, but excludes changing a coin-in amount based on a time signal. However, McArthur alter gaming machine operation based on monitored time. Such operation includes payments or coin-in amounts made by the player to the gaming machine. The gaming machine includes a clock to monitor the time. The gaming machine alter the coin-in amount based on the time of operation of the gaming machine (pg. 6:9-15, pg. 9:5-15, pg. 11:20-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the gaming machine of Acres with the coin-in time based means of McArthur to add further variety to the gaming machine. Such a modification would increase player excitement and interest in the game.

Acres in view of McArthur discloses the above, but excludes changing a maintenance schedule based on a time signal of the gaming machine. However, Yasukawa teaches that it is known in the art to schedule service periods and none service hours. Furthermore, it is well known in the art to schedule maintenance schedules during no busy or peak hours. When considering that Acres in view of

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McArthur clearly illustrated changing game machine parameters based on time, it would have been obvious to one of ordinary skill in the art to change a maintenance schedule (maintenance schedule taught by Yasukawa) based on a time signal to accommodate changes in peak hours of a casino establishment. Such a modification, makes the gaming establishment more efficient.

**Claims 101, 102, 112, & 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of McArthur (GB 2 211 975 A) in further view of Yasukawa (JP 10-263190 A) in further view of Miura US Patent 6,354,943.**

**Claims 101-102 and 112-113:** Acres discloses all of the instant application, as taught above, but lacks in specifically teaching that the controller replaces at least one of the available gambling games in response to the time signal and specifically stating replacing a first bonus game for a second bonus game. Instead Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. The above is motivation to one skilled in the art to seek a reference that changes the games with an available game in response to time. In an analogous game machine to Miura, therein, Miura

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discloses changing available games with respect to a time signal (Abstract). It would be obvious to one of ordinary skill in the art to change the games in Acres with available games (main/bonus) with respect to a time signal as taught in Miura using the above motivation that the game may be changed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 91-108 & 110-113 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/  
Primary Examiner  
Art Unit 3714

TH

05/25/09